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## ICNL FINAL REPORT: “PARTNERS IN SUSTAINABILITY”

*July 25, 2002 – November 30, 2003*

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### Identifying Information

**Project Name:** Partners in Sustainability

**Countries:** Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia

**Provider Name:** International Center for Not-for-Profit Law

**Grant Agreement No.:** EDG-A-00-01-0011-00

**Project Completion Date:** November 30, 2003

**Date of Report:** February 28, 2004

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### Report on Activities: July 25, 2002 to November 30, 2003

#### A. Executive Summary

Under this project, ICNL partnered with intermediary support organizations in eight USAID “close out” countries to promote NGO sustainability. Specifically, ICNL and its partners were instrumental in the enactment of five laws promoting NGO sustainability, the development of four pending drafts, and the implementation of over a dozen initiatives enhancing NGO sustainability. In addition, ICNL held two regional workshops on sustainability issues and hosted a website to provide partners with ready access to partnership materials. All these activities were accomplished with a budget of approximately \$18,750 per country per year.

In terms of enacted legislation, ICNL and its local partners are directly associated with the passage of the following laws:

- **Poland – the Law on Public Benefit Status and Volunteerism.** On April 24, 2003 the Polish Parliament adopted the [Law on Public Benefit Activity and Volunteerism](#). This piece of legislation is the culmination of a six year effort by the NGO sector led by partner FIP. According to Polish NGOs and lawmakers, the law is essentially an “NGO sector Constitution,” providing the basis for NGO-government cooperation and the provision of tax/fiscal benefits to the NGO sector.
- **Hungary – the National Civil Fund Law.** In June 2003, the Hungarian parliament enacted the National Civil Fund Law. The law establishes the National Civil Fund, an instrument designed to help provide institutional

support to Hungarian NGOs. Under the Civil Fund Law, the government will match the amount of taxpayer designations under Hungary's 1% tax designation law each year, and will in no case contribute less than the 0.5% of personal income taxes collected.

- **Estonia – the Compact.** The Estonian Parliament unanimously approved *the Estonian Concept for Civil Society Development*, which establishes the conceptual framework for NGO-government cooperation in the country
- **Latvia – the Law on Associations and Foundations.** Following a multi-year advocacy campaign organized by partner The NGO Centre, the Latvian Parliament enacted the Law on Associations and Foundations. The law replaces outmoded legislation which created obstacles to the development and sustainability of NGOs with progressive provisions governing all aspects of the lifecycle of foundations and associations.
- **Slovakia – The Law on Foundations.** In autumn 2001, Slovakia enacted the Law on Foundations, a comprehensive revision of the rules governing the formation and operation of foundations. The law is one of the most progressive laws governing foundations in the region. Partner SAIA cooperated with other Slovak NGOs in advocating for this law.

In addition, ICNL and its partners have advanced at least four additional longer-term law reform initiatives which ultimately can be expected to contribute to a stronger legal enabling environment for the NGO sector, as well as greater sector sustainability. These include:

- **Estonia – Amendments to the Law on Income Tax relating to Public Benefit Status.** ICNL teamed with partner NENO to advocate for amendments to the current Law on Income Tax clarifying criteria for entry on the government "list" of foundations and associations entitled to tax benefits. NENO successfully built consensus within the sector in support of the amendments, which now have received the preliminary approval of the Ministry of Finance, and are expected to be presented to the Parliament in winter 2004.
- **Lithuania – Draft Income Tax Law Amendments.** NISC was recently successful in brokering an agreement with the Parliament's Budget and Finance Committee regarding the exemption from profits tax for not-for-profit organizations. The agreed upon amendment, once enacted, will allow not-for-profit organizations an exemption of up to 25,000 litas on their income from economic activity up to 1 million litas. NISC was also instrumental in advancing the Draft Law on Social Service Provision, which introduces a modern social welfare system based on the cooperation between public and private actors in Lithuania.
- **Czech Republic – Recodification of the Civil Code.** The Czech Republic produced a draft Civil Code that would have eviscerated ten years' progress in creating an enabling environment for civil society in the country. To address this issue, ICNL joined with First Consulting, pbc, its Czech partner, to educate the Civil Code drafters on regional best practices

relating to NGO law. The drafters agreed to revise the draft substantially, and we will remain engaged in the process to ensure that Czech legal environment fosters NGO development and sustainability.

- **Slovenia – Comprehensive Reform of the Laws governing NGOs.** ICNL assisted PIC, its Slovenian partner, on a comprehensive law reform project co-funded by the Trust for Civil Society. ICNL has assisted PIC in defining its legislative priorities and is providing on-going technical assistance to revise basic framework legislation, develop provisions governing public benefit organizations, and increase NGO tax/fiscal benefits.

**Sustainability Grants:** ICNL awarded \$40,000 in Sustainability Grants to assist the Partners in conducting activities to enhance not only their sustainability but also the sustainability of the not-for profit sectors in their countries. Highlights of their grant projects include:

- **Advocacy:** FIP provided assistance to NGOs in advocacy during the Parliamentary debate of the PBA Law; NISC provided a forum for NGOs to discuss the draft Social Services law with ministry representatives.
- **NGO/Business/Government Partnerships:** NENO developed a partnership with a well known law firm to analyze and develop drafts of tax amendments, thereby building additional capacity in the private sector with respect to NGO legal issues;
- **Promoting philanthropy:** NIOK developed a set of materials for Hungarian donors on legal incentives for donations in Hungary and convened a group of business donors to discuss the importance of promoting a philanthropic culture.
- **Legal Assistance:** The NGO Centre developed a program to provide legal assistance to NGOs with respect to the Latvian NGO laws; NIOK provided legal assistance to taxpayers designating 1% of their income tax to an NGO; SAIA organized a seminar for NGOs on legal requirements with respect to the EU accession.
- **Publications:** Partners drafted and published brochures (SAIA, NISC, FIP), and developed internet based legal information (NIOK, NISC) to provide user-friendly information on the laws affecting NGOs.
- **Law reform:** Polish, Slovenian, and Czech partners supported their law reform projects on public benefit and framework laws using grant funds.

**Regional Activities:** ICNL supplemented these initiatives with regional activities addressing three other project goals – fostering the partners’ organizational capacity, financial sustainability, and their network. We held two meetings that addressed issues of the partners’ long-term financial sustainability: one dealing with options and plans for inclusion of fee-based income sources in the legal services field; and the other dealing with implications of EU accession of the Partnership countries on funding prospects of the partners. ICNL developed an online organizational policy manual dealing with the organizational capacity issues in which partners expressed the greatest need for additional

resources. ICNL further developed and maintained the Partnership web page on [www.icnl.org](http://www.icnl.org), which contained all the law reform resources developed during the partnership project, including laws, draft laws, comments, and materials from the Partnership meetings.

## **B. Project Background**

In this project designed to encourage small American not-for-profit organizations to engage with organizations in similar fields in USAID close out countries, ICNL has partnered with eight intermediate support organizations that either work on NGO law reform or provide NGO legal services, among other activities. Through their NGO legal initiatives, the partner organizations enable NGOs to form and operate, engage in income-generating activities, receive tax benefits, and otherwise operate in a favorable legal environment.

The partner organizations are:

*First Consulting, pbc* (Czech Republic). First Consulting, public benefit company, is the only NGO in the region devoted exclusively to providing assistance on issues of NGO law. ICNL has worked with First Consulting since its establishment. Under its USAID DemNet Project, ICNL had a formal funding relationship with First Consulting and its founders, working with them on various NGO law reform activities in the Czech Republic, Albania, Ukraine, and elsewhere.

*NENO* (Estonia). The Network of Estonian Nonprofit Organizations (NENO) is the umbrella body for nonprofit organizations and foundations in Estonia. Since its creation in 1991, it has functioned as a resource center uniting the third sector and building its capacity. It organizes training and seminars. It also provides consultancy services, including legal advice on issues of NGO law. NENO was one of ICNL's first DemNet partners, with our collaboration on legislative and capacity building initiatives dating back to 1994.

*NIOK* (Hungary). The Nonprofit Information and Training Center Foundation (NIOK) is the preeminent NGO resource center in Hungary. Among other activities, it provides legal assistance to Hungarian NGOs and provides information to members of the public interested in contributing to NGOs through the famous "One Percent Law." ICNL organized its regional conference with NIOK in 1996 and has cooperated with NIOK on other initiatives.

*NGO Centre* (Latvia). The NGO Centre is a resource center providing assistance on issues of NGO law, philanthropy, and other issues important to the Latvian NGO community. Under the DemNet Project, ICNL worked with the NGO Centre on NGO law reform and on its project to provide *pro bono* legal assistance to NGOs in need. Individuals associated with the NGO Centre also participated in several of ICNL's regional initiatives.

*NISC* (Lithuania). The NGO Information and Support Centre (NISC) was ICNL's primary NGO partner in Lithuania under the DemNet Project, with our relationship dating back to 1995. Through 1997, ICNL had a formal funding relationship with NISC through which ICNL provided funds for a legal consultant. ICNL also worked with NISC on several NGO law reform initiatives.

*FIP* (Poland). The Association for the Forum of Non-Governmental Initiatives (FIP) is established to advocate for a more favorable legal environment for NGOs, to promote the participation of NGOs in advancing civil society, to create a common identity in the sector, and to strengthen cross-sectoral cooperation. ICNL has frequently provided FIP with technical assistance, dating back to 1996 when FIP was founded.

*SAIA/SCTS* (Slovakia). The Slovak Academic and Information Agency / Service Center for the Third Center (SAIA/SCTS) is the premier NGO resource center in Slovakia. It was one of ICNL's original partners under the DemNet Project. Under this project, we organized trainings, provided technical assistance on draft legislation, and worked together on advocacy efforts. We have had a formal funding relationship with SAIA/SCTS, and have included their representatives in regional activities.

*PIC* (Slovenia). The Legal Information Center for NGOs (PIC) offers a free legal counseling service to non-governmental organizations and socially underprivileged individuals. ICNL has provided technical assistance, materials, and other information to PIC, focusing on issues of public benefit status, NGO taxation, and other legal aspects of NGO sustainability. PIC has also participated in ICNL's regional activities.

### **C. Project Activities**

#### **1. Advocacy in Support of Law Reforms Affecting the NGO Sector**

ICNL proposed in this project to leverage work with the partner organizations to advance the sustainability of the nonprofit sector in their countries. The projects that the partners have chosen to pursue underscore the importance of this linkage. A number of partners are working on projects designed to improve the legal rules promoting financial sustainability. So for example, a number of partners (Latvia, Poland, and Estonia) have undertaken projects to reform rules governing which NGOs are recognized as serving the public benefit and therefore should receive a full range of NGO tax/fiscal benefits. These projects have not only permitted ICNL and its partners to work together on activities that support the advocacy component of this project, but also to contribute to a good enabling environment for fiscal sustainability for the sector *writ large*. Moreover, to the extent that such projects contribute to the expertise of the partner organizations on these issues, they create a potential source of income-generating activities around which the partner can build a legal service practice, thus enhancing its own organizational sustainability.

In the second and final year of the project, ICNL continued its cooperation with its partners to implement law reform projects. These efforts have resulted over the course of the project in the enactment of five laws that will improve the legal fiscal enabling environment for NGOs, and the advancement of four others. Details regarding country specific initiatives follow:

- ***Czech Republic – First Consulting, pcb***

ICNL and First Consulting collaborated during the Partnership Project to address a serious threat to the legal framework governing NGOs that emerged in the wake of 2002 elections. The Czech government is undertaking to recodify the Czech Civil Code, which currently contains the provisions regarding the formation, registration, and operations of all forms of NGOs. A law professor who knows little about NGOs has taken the initiative to draft the recodification. The proposed recodification, in our local partner's words, "unravels ten years of work on the NGO legal framework in the Czech Republic." Among other problems, the initial draft of the proposed recodification:

- Eliminates the legal basis for "public benefit companies," which is the primary legal form for service-providing NGOs in the Czech Republic;
- Prohibits associations from engaging in public benefit activities;
- Allows the registration authority to deny registration to "provocative" NGOs;
- Requires a foundation's board of directors to pass a resolution before accepting any donation, complicating the ability of a foundation to raise funds;
- Requires that donations be used for endowment purposes, which makes it impossible for a foundation to collect and disburse donations to people in urgent need, such as victims of the recent floods;
- Prohibits foundations from accepting perishable gifts, including food and medicine;
- Requires a foundation to seek prior approval from the registration court before increasing or decreasing its endowment (which makes it practically impossible for a foundation to invest its endowment since it would have to continuously re-register based on market fluctuations); and
- Generally violates standards articulated under Article 11 of the European Convention on Human Rights.

ICNL worked with First Consulting and its Czech colleagues to organize a cross-sectoral coalition to educate the professor and his colleagues on problems with these provisions and to craft in their place provisions that will create an enabling legal environment for civil society. In addition to working with First Consulting to devise and execute its advocacy strategy on this issue, ICNL provided technical assistance in analyzing the provisions of the proposed recodification, submitting comments and sharing regional experience.

The recodification effort is ongoing, but the drafter has agreed to modify the draft substantially and to continue to work with First Consulting as this portion of the draft is

finalized. While the Civil Code recodification effort as a whole covers many areas in addition to the section covering NGOs, and will therefore proceed for some time, the effort to promote favorable provisions for NGOs has been successful as of project end.

- ***Estonia – NENO***

During the second year of the project, the Estonian Parliament passed the *Estonian Concept for Civil Society Development*, (“Compact”), legislation putting in place a framework for the relations between the Estonian government and the NGO sectors. The Concept reflects a partnership-based model of cooperation similar to the *Compact between the Government and the Volunteer and Community Sector in England*. ICNL has supported the efforts of NENO and others in the Estonia sector since before the inception of this project in advocating for the Compact.

In addition, NENO and ICNL collaborated on draft tax legislation refining the criteria for public benefit status – an effort in which NENO successfully built consensus around the need for such legislation, as well as a partnership with a major law firm to draft the legislation. The legislation has now received the support of several ministries, and it is expected that it will be submitted for consideration by the Parliament this winter. ICNL also assisted NENO in launching efforts to promote consideration of 1% legislation and assisted with preliminary research regarding legislation relating to volunteerism.

*The Compact:*

On December 12, 2002, the Estonian Parliament unanimously adopted the Compact. The Compact defines the mutually complementary roles of the public authorities and civic organizations, as well as the principles of their cooperation in shaping and implementing public policies and building civil society in Estonia. Among other things, the Compact defines a number of responsibilities to be undertaken both by civil society and government, including:

- Making available transparent and accessible channels of communication between the two sectors
- Ensuring accountability by public authorities for use of resources allocated to civil society
- Preventing conflicts of interest
- Establishment of principles for the representation of civil society before government
- Establishing principles for partnership between civil society and government
- Defining the means of cooperation between civil society and government

The Compact also establishes priorities for short and long term implementation of its principles, and includes a code of conduct for NGOs. NENO is in the process of carrying out activities designed to implement the compact, and ICNL provided comparative information (e.g., on implementation of codes of conduct) to assist in this effort.

### *Draft Amendments to the Income Tax Law:*

A core issue that affects not only the development of an appropriate framework for philanthropy, but also possible future eligibility for government funding of various types, is definition of which nongovernmental organizations should be considered “public benefit” organizations. Currently, the Estonian tax laws provide for a “list” of public benefit type organizations – organizations apply for entry on the list, and once they are listed, they are entitled to certain tax benefits. Entry on the list is determined by the tax authorities, according to the income tax law, which provides that an organization is qualified for the list if it provides charitable support of certain activities (science, culture, education, health care, etc.) in the public interest. This phrase is sufficiently broad and subject to interpretation that the tax authorities have had difficulty applying it consistently. So, for example, some membership type clubs have obtained status on the list, while research based or think tank type organizations have not on first try obtained entry.

NENO and its partners believe that work to define more clearly the criteria for public benefit status is significant for a number of reasons. First, the absence of clearly defined criteria has made the law difficult to administer for both the government and NGOs. Second, the granting of public benefit status and tax benefits to organizations that do not in fact serve the public benefit undermines the public image of the sector and may therefore frustrate efforts to expand philanthropy. Finally, qualification for the list is likely to become more important in the future in relation to, for example, state financing opportunities.

In order to educate and engage the NGO sector with respect to this issue, NENO enlisted ICNL and its Estonian partners, including the Estonian NGO Roundtable (composed of NENO members such as the Estonian Law Centre), in an effort to develop appropriate criteria defining public benefit organizations eligible for entry on the list. To advance this process, ICNL has provided research and models to NENO and its partners illustrating how legislation articulating criteria for public benefit status could be granted. As noted above, since public benefit status has been the subject of efforts by a number of partners, NENO and the Estonian NGO have and will continue to benefit from the networking aspect of this project – one of the models they have received and used in their own efforts was the Latvian draft Public Benefit law and ICNL’s comments thereto (described below).

NENO and the representatives of the Roundtable were committed to achieving consensus in the NGO community before approaching government officials or the parliament, and as a result, a number of the advocacy activities we conducted with NENO were addressed to educating and securing support of NGOs.



NENO used its “Sustainability Grant” funds from this project<sup>1</sup> to solicit assistance in analyzing the Estonian tax laws affecting NGOs from lawyer Maiu Fischer of Raidla Partners, a major Estonian law firm. The grants funds were used to fund expenses connected with the law firm’s work, and the firm agreed to match the amount of the grant in free attorney time (and, in fact, the firm provided far more than the agreed-upon match. This arrangement has not only provided NENO and the NGO community with the information it needs to advocate effectively for changes in the laws, but also has served to build capacity in a sophisticated law firm on NGO legal issues – capacity that will be available to the sector after this project has finished. Moreover, this arrangement helped to build an effective tri-sectoral partnership between the NGO sector, a private business, and the government in advancing NGO tax reform.

Ms. Fischer’s analysis consisted of a comprehensive review of the tax laws affecting NGOs in Estonia, as well as a consideration of alternative approaches to tax reform based on comparative materials provided by ICNL. Ms. Fischer prepared a draft law, which sought to define more adequate criteria for inclusion on the “list” of public benefit type organizations that are entitled to certain tax benefits. ICNL provided technical comments. These for the most part recommended refinements with respect to the definitions of which organizations are entitled to entry on the list. NENO then circulated the draft within the NGO sector, building consensus through widespread discussion of the draft. Once the NGO sector was satisfied with the draft, NENO conducted discussion with key Ministries, including the Ministry of Finance, to ensure their support for the draft. It is currently expected that the draft will be presented to the Parliament this winter.

*Philanthropy and 1% Legislation.* ICNL was asked to deliver a speech on the Role of Tax Incentives in Promoting Philanthropy at NENO’s annual spring conference. NENO used the conference to educate its members on issues relating to the promotion of philanthropy, and incorporated into the program ICNL’s presentation, as well as presentations by Ms. Fischer on the Estonian tax laws affecting NGOs and an academic on why a society should promote philanthropy. ICNL’s presentation focused on the reasons to use tax incentives to promote philanthropy, as well as comparative information regarding tax incentives used in a number of countries.

NENO is considering a 1% initiative as part of a larger initiative to consider how the climate for philanthropy, and particularly corporate philanthropy, can be improved. Such legislation would allow an individual taxpayer to designate 1% (or some other percentage) of taxes paid to be transferred to a nonprofit organization. ICNL made a presentation to a representative of the Ministry of Finance and a group of NGO representatives on the basic attributes of Hungary’s 1% law, which was the first law to provide for such a mechanism. The purpose of the presentation was to give the group sufficient information that they could decide whether they would like to proceed further with respect to a 1% initiative in Estonia. In the wake of the meeting, both the Ministry

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<sup>1</sup> Each partner in this project received a small grant of \$5000 for a project designed to improve its sustainability as a law reform institution or legal services provider. Grant projects are described below in Section C.2.

and the NGO group expressed interest in considering a 1% type law. NENO believes that it is important to educate the NGO community about and build consensus for this initiative, and did not anticipate that these activities could be completed and draft legislation proposed within the time frame of this project. Nonetheless, to begin the process, ICNL provided research materials on the Hungarian and Slovak 1% laws, and NENO continued with educational efforts.

*Volunteerism.* Finally, NENO identified as an emerging problem the laws governing volunteers. The law, for example, prohibits payment of per diems to volunteers who travel on an assignment, and NGOs attempt to evade this prohibition by paying the funds indirectly. However, a more comprehensive analysis of the laws governing volunteers will need to be made in order to determine if legislative reform is appropriate. NENO ultimately determined to enlist the Estonian Volunteer Center in continuing study of the volunteer laws, and ICNL provided the Centre with comparative materials with which to carry out its research.

- ***Hungary – NIOK***

*National Civil Fund Law*

Six years after the law on public benefit organizations and ten years after the basic framework laws have been passed in Hungary, both government and the NGO sector are now looking at a comprehensive review of legislation relating to the nonprofit sector. The Socialist government elected in 2002 considers it an important priority to develop a strategy for the development of the nonprofit sector, and aims to sign a “compact” type agreement with representatives of the sector. To this end, it adopted a “Government Strategy Towards the Nonprofit Sector” in May 2003 and has launched a number of law reform initiatives in the past year. The Hungarian Parliament in June 2003 enacted a law significantly advancing these aims, the Law on the National Civil Fund.

The law establishes the National Civil Fund, an instrument designed to help provide institutional support to Hungarian NGOs. To finance the Fund, the Hungarian government will provide matching funds based on the amount of actual taxpayer designations under the 1% tax designation law each year. The 1% Law permits every Hungarian taxpayer to designate 1% of his or her tax liability to a qualified NGO of his or her choice each year. Under the Civil Fund Law, the government will match the amount of actual tax designations each year, and will in no case contribute less than the 0.5% of personal income taxes collected. Thus, the more money that taxpayers designate, the more money will be contributed by the government to the Fund.

At least sixty percent of the Fund’s resources each year will have to be dedicated to providing institutional support to NGOs in Hungary. Besides covering the costs of the Fund’s administration, the remaining funds may be directed towards the support of various programs related to the development of the NGO sector, including, *e.g.*, sector-wide events, festivals, international representation, research, education or publications.

ICNL is proud to have been part of the legislative process of the National Civil Fund. As requested from the local NGOs (see below) and the Government Office for Civil Relations, we have provided comments on the various concept papers developed in preparation of the law as well as the draft law itself. ICNL's comments concentrated on issues of transparency, accountability and clarity of roles and responsibilities in the structure envisaged by the draft law. Most of our comments were incorporated in the final draft.

The Civil Fund is yet another milestone in the legislation concerning the not-for-profit sector in Hungary. The law will provide a new opportunity for NGOs to apply for much needed institutional support, and at the same time it will present an additional incentive for NGOs to increase their efforts at reaching out to citizens for the 1% designations.

NIOK, ICNL's Hungarian partner, has been involved in this as well other law reform initiatives as a member of the Independent Support Forum (ISF), an alliance of the major Hungarian grantmaking and development foundations, which aims to advocate for a long term strategy of sustainability for the third sector.<sup>2</sup> Because NIOK is not seeking a position of leadership with respect to NGO law reform initiatives, it has participated in these initiatives as part of the ISF.

### *Briefing Papers on Laws Affecting Sustainability*

ICNL also provided expert help to ISF and to NIOK in the development of a strategy for long-term sustainability of the sector. Among other things, ICNL has contributed to the legal analysis of the proposal developed by ISF and NIOK to the Trust for Civil Society in Central and Eastern Europe. The Environmental Partnership Foundation, a member of the ISF, has won the proposal and will now work with ECNL (a Hungarian public benefit company formed by ICNL, employing staff of ICNL Budapest) on NGO legal reform in Hungary. We have also reviewed and commented on a briefing paper on suggested reforms for donor tax incentives, and a position paper on how to improve existing financing mechanisms of the government to the NGO sector, both developed by this group. The papers include important recommendations to improve the fiscal environment for the sector, for example, by changing the currently restrictive tax credit provisions for individual donations (which is limited to approximately \$50 per year); and by creating enabling legal provisions for endowments. Both papers have been submitted to the Prime Minister's Office - Department of NGO Relations and to the Ministry of Finance.

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<sup>2</sup> ISF, as the self-organized platform of leading donors and support organizations, has strong leverage in advocating for substantial and needed reforms. It is involved in issues central to the law reform agenda in Hungary, such as expanding the opportunities for financial sustainability of the sector, creating additional incentives for private giving in addition to the one-percent provision, easing the administrative burden on smaller NGOs, promoting more transparent and accountable state financing, as well as reconsideration of the criteria for the public benefit status.

### *Donor Education Services*

NIOK has identified as its priority the development of legal services to NGOs, particularly through the Internet. NIOK has been intensifying efforts to inform NGOs and the general public about the 1% law, seeking to expand the number of persons who contribute to NGOs under the law. Moreover, NIOK would like to expand its Internet services to include legal advice (which it currently provides through in person consultations.) As discussed below, ICNL has sought to assist NIOK to build its capacity to provide these services through the Sustainability Fund, which has allowed NIOK to expand its Internet based information services.

In addition to the promotion of the one percent mechanism, NIOK has identified the education of domestic donors as a priority. While state resources for the NGO sector have been increasing, private philanthropy has been shrinking in Hungary. In the second year of the Partners in Sustainability Project, NIOK and ICNL embarked on a unique initiative to encourage private giving in Hungary by providing user-friendly information to the donor community so as to facilitate the growth of giving.

ICNL assisted NIOK's legal experts in developing a set of materials; these are now published on the [www.nonprofit.hu](http://www.nonprofit.hu) website. In addition, ICNL wrote an international comparative study of the effect of tax incentives on giving practices. This study is also available on the above website. The user-friendly materials developed and available on the website include:

- A plain language explanation of laws regarding giving and tax deductible donations in Hungary.
- A user-friendly guide to donors on how-to-give-in-Hungary.
- A Frequently Asked Questions site.
- A study on how laws can encourage philanthropy (international comparison).
- Discussion forum on the topic for NGOs.
- Discussion forum among donors.

#### **• *Latvia – The NGO Centre***

Following a multi-year advocacy campaign organized by partner The NGO Centre, the Latvian Parliament enacted the Law on Associations and Foundations. ICNL is pleased to have assisted with this effort. The law replaces outmoded legislation which created obstacles to the formation and registration of NGOs with modern, progressive provisions governing all aspects of the lifecycle of foundations and associations. It is regarded by Latvian NGOs as a “new constitution” for the NGO sector, and will become effective on April 1, 2004.

The Law represents a significant step forward for the NGO community in Latvia. The law contains a number of progressive features, such as:

- Clear, simple, and inexpensive procedures for foundation and registration of associations and foundations, requiring only two natural or legal persons to found as association, and one person to found a foundation.
- Establishment of a central Association and Foundation Register, accessible to the public; voluntary registration; and acquisition of legal personality upon entry in the register.
- Limited discretion on the part of Registration officials to reject an application for registration, limited time period within which a decision must be made (3 days), a requirement for substantiation of any decision to reject an application, and the right to an appeal the decision.
- Provision for associations and foundations to engage in economic activity.
- Resolution of a number of outstanding problems that interfered with the work of volunteers.

The new law replaced the 1992 Law on Public Organizations and Associations and the 1991 Law on Non-profit Organizations. These laws have posed several obstacles to the ability of NGOs to form and register easily. For example, under the Public Organizations Law, a minimum of 10 natural or legal persons were required to found an organization. Moreover, a public organization or association could not earn income from economic activities in excess of 200 minimum monthly salaries as established by the government, and could not have more than five employees permanently engaged in economic activities. If these limitations were exceeded, the organization was required to reregister as a business enterprise. A non-profit organization, as an enterprise established for non-profit services, charity, or the manufacture of certain products, was not subject to these restrictions. However, the law on nonprofit organizations imposed minimum statutory capital requirements on organizations registering under its provisions, as well as high registration fees. The prior laws did not recognize the legal status of “foundation,” and existing foundations were required to register as not-for-profit companies with limited liability, and were thus unable to obtain government assistance or tax benefits.

As discussed in last year’s mid-term report, ICNL has assisted the NGO Centre for a number of years in its participatory initiative to advocate for reform of the Latvian laws governing NGOs. Last year, ICNL provided to the NGO Centre detailed comments on the legislative package, which included the Law on Associations and Foundations. This year, the Parliaments’ Ad Hoc Committee on the law met weekly for much of the year to review the laws provisions; the NGO Center was invited to participate in these meetings. The lawyers for the Committee used the comments provided by ICNL as the committee reviewed each provision.

At the request of the NGO Centre, ICNL also met with Mr. Šilinš, the head of the Ad Hoc Committee, to answer his outstanding questions regarding the legislative package, and to emphasize the importance of the law’s enactment. In particular, ICNL provided comparative information on how other countries address the problem of injuries sustained by volunteers in the workplace. ICNL provided Mr. Šilinš and the NGO Center with additional comments and information on the questions relating to volunteers and to

the conflicts of interest provisions of the law in an effort to advance the Committee's work. We also worked with the Committee chairman and the NGO Centre on a legislative strategy with respect to the legal issues surrounding volunteers. It was decided that more inclusive provisions relating to volunteers would be addressed in additional legislation, rather than hold up consideration of the existing legislative package.

The Law on Associations and Foundations was part of a comprehensive legislative package which includes, among other things, a draft law on Public Benefit Organizations and amendments to the tax laws. These are under consideration by the Parliament and hoped to be enacted in the near future.

*Tax Incentives for Philanthropy:* ICNL also worked with the NGO Centre to combat a threat to the tax incentives for philanthropy currently available in Latvia. In March 2003, the Prime Minister had discovered that a number of wholly or partially state owned enterprises (utilities and the like) have been making donations to the three largest charities in Latvia (the Latvian Olympic Committee, the Children's Fund, and the Culture Fund), and apparently some have been claiming a tax credit for these donations. The Prime Minister was outraged that state funds were being used to make donations. Instead of focusing on the state owned enterprises, however, he ordered the Ministry of Finance to within one week prepare a paper on how much money was being lost to the state budget as a result of tax incentives for *all* donations, as well as recommendations for a system by which the state could replace private donations with state-controlled subsidies to the sector.

The sector was extremely concerned about these developments, and particularly about the potential loss of all tax benefits for donations. To assist the NGO Centre, ICNL met with two representatives of the Ministry of Finance who were charged with compiling the information requested by the Prime Minister. We reviewed with them the reasons why it is important for a tax system to include tax incentives for donations, and provide examples from other countries demonstrating that virtually all democratic countries provide these tax incentives. We also reviewed with the representatives means for overseeing such donations, including limiting the types of organizations entitled to receive tax-benefited donations to public benefit organizations, and reporting systems. In addition, the presentation included information on some of the ways in which governments support the NGO sector directly, including subsidies, grants, and procurements, as well as new examples such as Hungary's Civil Fund Law. We followed the meeting by providing a power point presentation providing examples of tax incentives for philanthropy from the US, Western Europe, the other Baltic countries, and other CEE countries for the Ministry officials for use in their presentation to the Prime Minister.

At our partner's request, ICNL also appeared before two media outlets, the Latvian State TV station and an internet public policy portal, emphasizing as a general matter the importance of tax benefits for donations in encouraging local philanthropy.

Following these meetings, the Ministry determined to allow for further discussion of the tax incentives issue with the NGO sector. This has allowed our partner and others

in the sector to develop a stronger case and advocate more effectively for retention of tax incentives for donations.

*Laws on Volunteers:* ICNL also met with a group of lawyers from the Volunteer Center and the Soros Foundation to discuss laws affecting volunteers. The Volunteer Center has undertaken research to identify obstacles in the legal system to volunteerism. Thus far, the Center's research reveals a number of obstacles, including tax provisions that treat reimbursement of expenses as taxable events. The legislation addressing the rights of volunteers is a longer term project that would not be completed before the Partners' in Sustainability Project closes out, and as a result, we limited our assistance to providing comparative materials to assist the Volunteer Center's longer term initiative.

- ***Lithuania – NISC***

*Income from Economic Activities*

Collaboration between ICNL and NISC resulted in a recent agreement between the Lithuanian NGO Sector and the Parliament's Budget committee with respect to the taxation of income from economic activities by NGOs. This agreement resolves a long-standing issue regarding the regulation of NGOs and will ensure that all NGOs have the opportunity to engage in economic activities to support their not-for-profit activities. A draft amendment reflecting this agreement is expected to be presented to the Parliament in the near future.

The agreed upon amendment, once enacted, will allow not-for-profit organizations an exemption of up to 25,000 litas on their income from economic activity up to 1 million litas. This is essentially the same rule that will be applied to small businesses. This compromise forestalled complete elimination of the tax exemption for any economic activities of NGOs.

As discussed in last year's report, ICNL has worked to support NISC in its work to obtain amendments to the laws governing economic activities by NGOs. We provided comments in support of NISC's proposal to establish a threshold amount above which income from NGO economic activities will be taxed which were publicized through NISC's website, as well as comparative materials.

At the outset of this project, Lithuanian law was among the most regressive in the CEE region in regulating the permissibility of economic activities. Many NGOs (associations and charity and support foundations) were prohibited from engaging directly in economic activities and were required form a separate business subsidiary in order to conduct business activities to support their operations. This creates additional administrative burden or expense for an NGO wishing to carry out such activities – a burden that may be prohibitive where activities are minor or occasional. Moreover, the business subsidiaries are taxed on their earned income like all other businesses. In an environment where foreign donations are shrinking, and local philanthropy has not yet developed to the point where it provides sufficient support to the sector, economic

activities can provide an important means for NGOs to obtain unrestricted support for their operations. Reform of the provisions of the law restricting direct economic activities is thus critical to bolstering the sustainability of the Lithuanian NGO sector.

### *Draft Law on Social Services*

In the second year of the project, ICNL staff has assisted NISC with the discussion of the Draft Law on Social Service Provision in Lithuania. Lithuania, like several of the Central and Eastern European countries, is undergoing reform of its welfare services, including education, health and social services. Lithuania adopted a comprehensive Law on Social Services in 1996 and after six years, the government is looking to revise it substantially, partly in response to the challenges that emerged in the implementation of the law, and partly to accommodate more general European trends in defining and providing social services. The current law makes several major steps to introduce a modern social welfare system that relies upon on the cooperation between public and private actors in Lithuania.

The law, among other things, differentiates between general social services that may be provided by any actor in the community (including, but not limited to, churches and non-governmental organizations), and special social services that are subject to state license. NGOs may obtain these licenses if they meet the law's requirements. The law provides that "in organising social services the local government shall give priority to purchasing social services from the providers of social services specified in Article 17 of this Law," which include nongovernmental organizations. Additionally, the Law describes a separate support mechanism for NGOs: "The local government shall support initiatives of non-governmental organisations, religious communities, associations, centres or other providers of social services in organising social services through the programs carried out by the local government. Purchase of social services must be separated from the support of social services institutions, non-governmental organisations, religious communities, associations or centres."

These provisions among others establish the legal foundation for contracting and government support of nongovernmental organizations active in the various fields of social service provision. In the process of drafting, lawmakers have faced a number of questions and were interested to learn about examples from other countries. ICNL met with two representatives from the Ministry of Social Affairs, representatives of local governments, including the Mayor's Office in Vilnius, NISC and other legal experts as well as about 20 leading NGOs to share experiences from Hungary and the region. ICNL presented legislative examples from other countries of models for the relationship between the state and NGOs in social service provision. This was followed by a discussion of the Lithuanian Draft Law. The Ministry expressed its appreciation for ICNL's insights on the Draft Law.

ICNL also assisted NISC in clarifying some issues related to the implementation of the regulations on Public Benefit Organizations. The regulations adopted earlier in the year will become effective in July 2004, and therefore, both government and NGOs will



have had about a year to prepare for implementation. NISC convened a small group of eight key people, including officials from the relevant ministries, (e.g., the Ministry of Finance), leaders of major advocating NGOs and NISC legal experts. ICNL provided a brief introduction and led a discussion about the criteria listed in the PBO regulations, and how the regulations will be implemented, including what the role of the various government authorities will be.

- ***Poland – FIP***

On April 24, 2003 the Polish Parliament adopted the [Law on Public Benefit Activity and Volunteerism](#). This law is the culmination of a six year effort by the NGO sector. The law will enable Polish NGOs to develop closer working relationships with the public administration and provide new opportunities for the nonprofit sector to diversify its resource base. According to Polish NGOs and lawmakers, it is to be seen as an “NGO sector Constitution,” which regulates relationships between the public sector and the Third Sector. The Parliament also passed a companion draft implementation law, which includes a number of tax and other related regulations, as well as technical changes in other laws necessary to make the draft law effective. ICNL contributed to its adoption through its work with the Forum of Non-governmental Initiatives (FIP).

Among other features, this new law defines the criteria for public benefit status of Polish NGOs, provides a procedural framework for NGO cooperation with local governments, establishes an NGO Council (an advisory body to decision-makers on issues concerning public benefit status), sets forth basic provisions relating to volunteering, introduces a version of the “1% law” in Poland, and provides for more liberal investment opportunities for public benefit organizations.

FIP played a key leadership role in advocating for enactment of the law. ICNL has assisted FIP by providing comments, working with the drafting group, and delivering a major presentation before members of parliament of NGO leaders.

ICNL worked with FIP to identify issues presented by the draft and to develop appropriate resolutions. ICNL then assisted FIP in obtaining a translation of the draft. ICNL at FIP’s invitation appeared at a meeting of Parliamentarians and NGO leaders organized on the day the Parliament assigned the draft laws for the first discussion. ICNL presented on the concepts underlying the draft law as well as on Hungary’s experience with similar PBO regulations. In advance of this meeting, ICNL prepared and submitted a brief summary of its comments on the draft.

ICNL followed this presentation with submission of detailed comments on the draft to assist the drafting group in articulating more clearly a number of concepts. These were translated and distributed to the MPs. Our comments addressed, among other things:

- The need for greater clarity with respect to mechanisms of NGO/government cooperation. The Draft Law seeks to establish a framework for NGO

cooperation with local governments, to define and regulate public benefit organizations, and to foster their sustainability by providing for tax benefits, but requires further definition of concrete incentives and mechanisms for encouraging cooperation that can be effectively implemented.

- Revisions to ensure that the burdens placed on public benefit organizations are commensurate with the benefits provided to such organizations.
- The benefits of permitting greater flexibility in the list of activities that qualify an organization for public benefit status.
- Improvements in the internal governance provisions relating to PBOs by establishing clear rights and responsibilities for supervising bodies.
- Establishment of minimum standards to deter conflicts of interest for PBOs.
- Introduction of greater flexibility in the provisions governing commercial activities by NGO service providers
- Modifications to the supervision provisions to eliminate intrusive government inspections in favor of reporting and disclosure system, or, at a minimum to include greater procedural protections for NGOs subject to such inspections.

To supplement our direct advocacy work with FIP on the law, we invited Mr. Golinski to serve as a fellow in ICNL's Budapest office for a month this winter. During his fellowship, Mr. Golinski devoted his time to work on the draft law, and specifically worked with ICNL on an additional set of comments regarding tax exempt investment opportunities for NGOs. The Polish tax authority in the Polish Science Foundation case earlier interpreted investment as income not spent on statutory activity and therefore, taxable. The position was overturned by the Supreme Court in 2002. An earlier draft of the PBA Implementation Law addressed this issue in a restrictive manner that did not take into consideration the ruling of the Supreme Court. The comments drafted by Mr. Golinski during his ICNL fellowship were instrumental in liberalizing the law ultimately enacted, which permits a broader range of investments by NGOs.

During his internship in Budapest, Mr. Golinski also worked on comments to the Hungarian Civil Fund Law; wrote an article for a Polish journal about the Hungarian one percent law; developed a paper for ICNL on the Polish system of Social Dialogue, a framework for public participation for the NGO sector; and assisted ICNL staff in comparative regional research on NGO provision of social services.

- ***Slovakia – SAIA***

In December 2001 and January 2002, key pieces of legislation were enacted with ICNL's assistance and have led to major steps forward in the development of the nonprofit sector in Slovakia. The Parliament passed a long overdue Law on Foundations and Funds; as well as the law on 1% personal income tax designations of taxpayers to nongovernmental organizations. ICNL provided technical assistance to the new Law on Foundations. This supplemented ICNL's long-standing assistance to the Ministry of Justice task force on the law, during which we submitted comments and provided other assistance that were instrumental in amending the draft. We submitted additional

comments during the course of the project that were used by local organizations to support the passage of one of the most progressive foundation laws in the region.

Since then, both implementation and corollary legislation has moved into a new phase in Slovakia; among other things, a law permitting businesses to designate 1% of corporate taxes to NGOs has been adopted.<sup>3</sup>

ICNL has been working with SAIA to assist in developing a role and strategy in response to these new developments. Among others things, ICNL provided information on the Hungarian experience in running a 1% campaign, as well as on tax advantages for NGOs in connection with an effort to ensure tax exemptions on income from foundation endowments.<sup>4</sup>

SAIA has focused as part of its legal education services on among other issues, the consequences for Slovak NGOs of European Union Enlargement. SAIA requested ICNL assistance in delivering a roundtable to educate Slovak NGOs on this issue. ICNL helped organize a one day workshop for approximately 60 NGOs, and presented on a number of topics related to EU accession and its implications for NGOs, including:

- An overview of EU member countries' legislation concerning civil society;
- Regulation of economic activities, with comparative examples (Germany, Austria, Hungary).
- Incentives for philanthropy in EU member states (including analysis of the UK system).
- VAT regulations concerning NGOs in EU member states, under the EU Sixth Directive on VAT.
- An update on the Hungarian National Civil Fund Law.

- *Slovenia – PIC*

ICNL has worked with its partner, PIC, on a comprehensive initiative to reform the laws governing NGOs in Slovenia. In this partnership, the Trust for Civil Society provided primary funding for the project, with ICNL responsible for providing technical

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<sup>3</sup> On October 28, 2003, a new tax code was adopted in Slovakia. It introduced a flat tax of 19% for individuals and companies as of 2004. Along with this, all tax benefits and allowances will be abolished, including the tax deductibility of donations to NGOs. However, as of 2005, both individual and corporate taxpayers may designate 2% (as opposed to the current 1%) of their tax liability to a qualifying NGO.

<sup>4</sup> As discussed in our year one report, immediately prior to the commencement of this project, SAIA underwent a serious structural change, in that its field offices outside of Bratislava have become independent entities. Central office staff was significantly reduced (5 remained in the Bratislava office). As a result, SAIA has redefined its involvement in NGO legislation reform, and has not taken a strong advocacy role in the current reform efforts. Rather, it is seeking to develop its legal services to NGOs, including Internet-based information, personal consultations, and publications.

assistance through the Partnership Project. This partnership resulted in the production of a draft legislative package which PIC expects to present to the Parliament in the coming months.

PIC's goals for its law reform effort are to (1) create a legal environment which will foster the development of Slovenian NGOs; (2) establish a network of the NGOs interested in legislative initiatives and improvement of legal environment in which they work; and (3) strengthen collaboration of the NGO sector with Parliament, and central and local government on NGO legislation. In the initial phase, work has been primarily focused on amendments to the framework laws, the development of public benefit status, and the expansion of NGO tax/fiscal benefits. The project was designed as an indigenous undertaking with only limited foreign involvement, in which PIC worked to build consensus among local organizations. Within this framework, ICNL shared comparative information and provided conceptual advice, which were then used in local working group meetings.

During the second year of the project, PIC has organized a working group that is attempting to develop provisions that distinguish between NGOs that serve the public benefit from those that serve the private interest of members. Ultimately, it is expected that the working group will develop provisions to confer tax benefits on the class of NGOs with public benefit status.

ICNL visited with PIC to provide assistance with the conceptual issues presented by the drafting process. At an early stage of the drafting, the working group struggled because the Slovenian legal landscape is replete with disparate NGO legal concepts. For example, over 85 legal documents refer to the NGO sector, but there is little consistency among the terminology used. Some laws refer only to associations. Others refer to institutions, trade unions, political parties, and/or foundations. Still others refer to “civil society” and “NGOs.” The group was attempting to satisfy a variety of stakeholders by providing a universal definition of “NGO” that would cover everything from public participation to procurement – an effort that proved extremely difficult and was hindering its ability to proceed with the drafting process. In an effort to resolve the impasse created by this issue, ICNL provided advice to the effect that the group should examine the underlying policy rationale each law at issue, and allow that policy rationale to drive the determination of who should be covered by the law.<sup>5</sup> ICNL also provided assistance on the issue of “public benefit status” and NGO organizational forms common in Europe.

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<sup>5</sup> PIC has noted that Slovenia serves as an interesting “control country” when examining the impact of ICNL’s work in the region. Until the Partnership Project, Slovenia was not included in USAID regional law reform projects, and therefore did not participate in the conceptual development underlying progress elsewhere in the region. As a result, according to PIC, bad practices have now been institutionalized. This is reflected in the USAID NGO Sustainability Index legal environment component. Slovenia was included in the index for the first time in 2003, and it received the lowest score (3.8) among the eight countries included in this project – it is the only country in this project not in the “Consolidation” phase of development. We are hopeful that upon completion of the law reform initiative begun as part of this project, Slovenia’s score will improve to the level of the other countries in the project.

ICNL provided to PIC a number of comparative documents from the EU and CEE relating to NGO taxation so that it could begin developing the working group's capacity on these issues. ICNL also provided in person review to PIC on core tax concepts in connection with this effort. We further provided comparative materials discussing various forms of NGO/Government cooperation, including in the areas of public funding and public participation, for use in the government's consideration of a "Commission" for NGOs.

Ultimately, PIC worked with the working group and others to draft and build consensus for a new draft NGO law. The group will consider comments and revisions, and expects to submit its draft to Parliament in the near future.

## **2. "Sustainability Fund" -- Grantmaking to Partners**

To encourage partners to undertake projects that will enhance not only their own sustainability but also sustainability of the sector as a whole, ICNL made available to the partners a small "Sustainability Fund" from which they applied for and were awarded \$40,000 (or \$5000 per partner). These grants were awarded for projects that support ICNL and the partner's mutual law reform interests while advancing an organizational capacity, financial sustainability, or advocacy goal. Generally speaking, grant projects fall into two categories. Some partners have elected to use grant funds to pursue NGO law reform advocacy projects. These projects expand the partners' technical skills and advocacy capabilities, and complement the technical assistance activities described above. Others have chosen to use grant funds to expand their capacities as providers of legal information or services. These projects make the partners' expertise more available to the NGO community, thereby expanding the market for their services and increasing their financial sustainability. Grant projects included:

- ***Czech Republic: First Consulting, p.c.b.***

ICNL has approved a grant of \$5,000 for 2 years to allow First Consulting to fund expenses in connection with its advocacy campaign with respect to recodification of the Czech civil code. The project is described above.

- ***Estonia – NENO***

NENO used its "Sustainability Grant" funds from this project to solicit assistance in analyzing the Estonian tax laws affecting NGOs from lawyer Maiu Fischer of Raidla Partners, a major Estonian law firm. The grant funds were used to fund expenses connected with the law firm's work, and the firm matched the amount of the grant in free attorney time. This arrangement has not only provided NENO and the NGO community with the information it needs to advocate effectively for changes in the laws, but also has served to build capacity in a sophisticated law firm on NGO legal issues – capacity that will be available to the sector after this project has finished. Moreover, this arrangement

helps to build an effective tri-sectoral partnership between the NGO sector, a private business, and the government in advancing NGO tax reform.<sup>6</sup>

- ***Hungary – NIOK***

NIOK received a grant of \$5000 for 2 years, to support the expansion of information regarding the legal rules affecting the nonprofit sector, with particular focus on the 1% law, on the main Hungarian Internet portal serving the nonprofit sector ([www.nonprofit.hu](http://www.nonprofit.hu)), which it NIOK operates. The grant project was essentially completed in 2002, and a detailed report on it appears in our year one report.

The grant funds provided by this project helped NIOK to expand the availability of legal information affecting NGOs over the internet. This benefits the sector as a whole, but particularly small NGOs that cannot afford to employ a lawyer. In particular, this service helped to inform NGOs and taxpayers about recent changes in 1% law, and to expand NIOK's 1% information campaign -- income to NGOs under the 1% law increased from 3.7 billion to 4.3 billion HUF, for which NIOK's information campaign can be credited in part.

- ***Latvia – The NGO Centre***

In the second year of the project, The NGO Centre used its grant of \$2500 to continue its provision of *pro bono* consultations to NGOs. The NGO Centre has hired a lawyer that specializes in the work of NGOs. With the assistance of a member of the Centre's board who is also an attorney, and other staff members the attorney has worked to identify and organize pro bono assistance from legal firms in Riga to consult NGOs on issues relating to the NGO sector, including the new draft legislation governing the sector (see discussion above).

The Centre provided information, consultations and training to those lawyers, who have agreed to provide their services on a pro-bono basis so that they can provide accurate and current information about the new laws to NGOs, including information about the process for NGOs to register with the State under the new legislation. The consultations are important because the draft law contains issues with which NGOs have never had to deal in Latvia, such as a new legal status and a re-registration process.

- ***Lithuania – NISC***

NISC undertook a project to provide to Lithuanian NGOs, policy-makers and NGO-related institutions draft laws, information about progress and nature of debates and hearings in the Parliament and Cabinet of Ministers through two volumes of quarterly information journal "Third sector." Bulletins providing this information have a circulation of approximately 4000 organizations. "Third Sector" is also distributed through NISC's website. The goals of the project included:

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<sup>6</sup> NENO used its year one grant of \$2500 to fund expenses incurred in connection with its law reform efforts.

- To inform Lithuanian non-governmental organizations and policy-makers about recent changes of in the legal system (new government decrees, law amendments, official interpretation etc.) affecting NGOs
  - To increase awareness among Lithuanian NGO leaders, and stimulate public discussions, regarding the substance, processes and progress of the reform of laws affecting NGO (such as debates on new draft laws on civic organizations, foundations, associations and public non-profit enterprises, and NGO development law)
  - To inform Lithuanian NGO activists about the implementation and application of recently passed or amended legislation – such as the Charity and Sponsorship Law and Inhabitant Tax Law; and
  - To facilitate exchange of knowledge and technical assistance regarding legal reform affecting Lithuanian NGOs by providing translations of draft and new legislation and experts' recommendations.
- ***Poland – FIP***

ICNL approved a grant of \$5,000 for 2 years to expand FIP's organizational capacity to address current legal reform issues. With its grant FIP supported the legal reform work related to the passage of the Law on Public Benefit Activities and Volunteerism, described above. Specifically, FIP focused on the three following activities using its grant in project year two:

- **Collect and systematize materials concerning the Draft Law on Public Benefit Activities and Volunteerism.** In connection with its efforts to develop support within the NGO community for the law, and to educate government officials on the need for such a law as well as its specific provisions, FIP has collected and systematized opinions, comments and remarks on the Draft on an ongoing basis. It prepared several legal analyses and created an archive reflecting work done over the last several years on prior drafts by both the administration and NGOs. All of these materials were delivered directly to NGOs and MPs actively involved in the drafting process and were also published on the Internet.
- **Monitor the work of the Polish Parliament.** FIP has been constantly monitoring developments in Parliament and has prepared NGO representatives to participate in sessions of the parliamentary committee to which the Draft Law is assigned. The result of monitoring was that current information was made available for NGOs about proposals and solutions approved in the parliamentary committees. Based on this information NGOs reacted immediately – delivered opinions, comments, petitions to the Parliament, published articles and expressed their opinions in mass media. According to FIP's own account, "the main result of the project achieved using the Grant Fund was the possibility for NGO leaders interested in NGO law reform to participate and express opinions in the Parliament and in the consultation of drafts laws in government."

- **Educate NGOs about the progress of work at the Parliament and laws being drafted** that are relevant for the operation of non-governmental organizations. FIP published a booklet containing information about the Law on Public Benefit Activities and Volunteering; specifically, the booklet addresses the new law's provisions, as well as other pertinent legal provisions. The publication is now available in print form and is also posted on the website devoted to the Law ([www.ustawa.ngo.pl](http://www.ustawa.ngo.pl))

- *Slovakia – SAIA*

ICNL has approved a grant to SAIA of \$2,500 for year 2, which was used to finance research and analysis on the first year of implementation of Slovakia's "1%" Law, as well as a brochure and fact sheet summarizing the research.<sup>7</sup> SAIA's research and publications are an important contribution to efforts to promote taxpayer use of the one percent law in Slovakia, as well as to the literature regarding regional experience with these laws.

As discussed above, effective January 2002, the Slovak income tax law gave individual taxpayers the right to designate one percent of their income tax paid to support NGOs engaged in public interest activities. SAIA, including all of its regional offices, participated in a campaign to educate NGOs regarding the opportunities presented by the new 1% provisions. As a result of this campaign, over 4000 NGOs registered to receive 1% contributions in the law's first year, and 331,466 taxpayers designated approximately \$2.4 million to be paid to NGOs.

SAIA used its grant funds to collect and analyze data on recipients of 1% contributions during 2002, including information about their legal form, geographical distribution, and main area of activity. The data was summarized in a brochure featuring charts and financial data demonstrating, among other things, the distribution by region of 1% contributions, which legal form of NGO received the greatest contributions. This information can be use by NGOs to design their promotional campaigns, among other things. SAIA distributed 400 copies of the brochure throughout Slovakia, and uses the brochure in all its offices in connection with its NGO consulting services. These materials were thus also useful in supporting SAIA's advisory services, a key goal of SAIA during the course of this project. SAIA also designed a fact sheet summarizing its findings, which has been distributed through, *e.g.*, SAIA's website.

- *Slovenia – PIC*

ICNL approved a grant of \$5000 to PIC to match its grant from the Trust for Civil Society to conduct a comprehensive project to reform the laws governing NGOs and educate NGOs about their responsibilities. The project is described above.

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<sup>7</sup> As detailed in our year one report, SAIA also received a grant of \$2500 in the first year of the project to enhance its capacity to provide information about legal rules governing NGOs; specifically, it developed brochures on how to start an NGO under Slovak law.



### **3. Regional Activities Supporting Partner Organizational Capacity, Sustainability, and Networking**

ICNL designed a series of regional activities to address the three other issues presented by the project: organizational capacity, financial sustainability, and networking.<sup>8</sup> The regional activities included two regional meetings dealing with issues critical to financial sustainability, an organizational policy sourcebook, and a website that would allow sharing of materials relating to law reform within the network of partners.

#### ***Regional Meetings***

ICNL hosted two regional meetings of the partners during project year two. The meetings were designed to assist the partners with their strategies for long-term financial sustainability, an issue all partners had identified as of greatest significance to them. In the Sustainability Assessments undertaken at the outset of this project, every partner expressed an interest in working to diversify its resources, and specifically in developing strategies for generating income the use of which is unrestricted and can therefore cover costs of management and administration. As most of the partners are fairly sophisticated with respect to organizational development issues, and have already attended many workshops dealing with issues of financial sustainability generally, ICNL tailored its meetings to focus on very specific aspects of financial sustainability that would be new or challenging for the partners and likely to build their skills and experience.

- ***First Regional Meeting: Business Development***

In consultation with the partners, ICNL selected as a topic for the first regional meeting business development, and specifically, development of fee-generating activities. The objective for the meeting was to develop partners' options and plans for inclusion of fee-based income sources in the legal services field as a means of increasing partners' long-term financial sustainability. The meeting took place in Budapest, Hungary on December 2-4, 2002. Allan Bussard, Director of Integra Foundation - an internationally recognized expert in this field - worked with the group on effective planning and implementation of business activities. Ferenc Pasztor, Executive Director of the Transylvanian Business Forum accompanied Mr. Bussard as guest lecturer.

Two partners, NIOK and First Consulting already had considerable experience with business development to share. NIOK had worked with the Nonprofit Enterprise and Self-sustainability Team (NESsT) to develop the [www.nonprofit.hu](http://www.nonprofit.hu) website, currently an NGO-portal, into an income-generating service. They talked about the difficulties they encountered in developing a business plan, which provided important lessons learned for the other partners. First Consulting essentially conducts all of its activities on a contract, or fee-generating, model, and discussed the challenges presented to NGOs conducting contract-based work.

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<sup>8</sup> When the project began, ICNL was asked by its then project officer to focus the project more specifically on the advocacy prong of the project, working with the partners on their law reform projects. We therefore addressed the other prongs of the project through regional activities.

The partners addressed in a participatory manner, facilitated by the visiting experts, the following topics:

- Identifying the right option / idea for business activity
- Cost benefit analysis with respect to new business activities
- Planning and development of product
- Market research
- Development of a business plan, including budgeting, product pricing, marketing strategies, resource allocation
- Implementation of business plans

The partners used small group sessions to work on development of their own business ideas. As a result, some partners developed initial ideas for a business plan – while others realized that their ideas were not viable. The partners found the topic to be of such value that they requested a follow up session during the second meeting of the partners so that they could explore several topics in greater detail.

• ***Second Regional Meeting: EU Enlargement***

The second regional meeting took place in Prague, Czech Republic, on May 17-20, 2003. The title of the workshop was EU Enlargement: Issues for NGO Resource Centers in CEE, and it focused on issues identified by the partners regarding the implications of EU accession for their operations, and specifically, for their fundraising prospects. Its objectives were:

- To help prepare and position partners to access EU funding to support their roles as key NGO resource centers after EU enlargement.
- To provide information to partners on key issues relating to EU accession that affect NGO legislation and NGO development in their countries.
- To follow up on the business activities planning seminar conducted with partners in December 2002.

Ms. Darina Kadunkova from the European Institute in Sofia and Mr. Pavel Kelly-Tychtl from European Citizen Advice Service (ECAS) in Brussels served as experts for the EU related portions of the meeting. In addition, ICNL invited Ms. Joanna Messing from the Nonprofit Enterprise and Self-sustainability Team (NESsT) for an advanced level follow-up session to the partners in business development.

Mr. Kelly-Tychtl presented and led discussions on the structure of the EU, the European Commission and civil society, its relationship to NGOs and interest groups, understanding the EU decision-making processes and the roles of European NGO networks and their relationship to candidate countries. The group also discussed practical tips on how to lobby EU institutions and how to link advocacy and funding.

Catherine Shea and Nilda Bullain from ICNL provided materials to the participants and held a brief presentation on legislation in the EU and member states affecting civil society. This included an overview of member countries' legislation concerning civil society, best practices from member countries as well as best practices in CEE countries that could be of interest in the EU; and law reform needs to meet EU practices in candidate countries (primarily, VAT harmonization).

Ms. Kadunkova presented and facilitated discussions on funding issues, including: an overview of EU funding policies, opportunities and processes; a review of key documents; EC External Aid Programs; lessons learned from experience with pre-accession instruments (i.e. Phare); and Structural Funds. Further, the group looked at the role of NGOs in the programming cycles and considered how to prepare a budget or a logframe required for an EC proposal. Representatives from NENO, our Estonian partner, shared their initial experiences in applying for Structural Funds in Estonia. They advised that it is very difficult for most NGOs to meet the eligibility criteria to receive such funding, and that NGOs will have to collaborate with private and public sector institutions to access any EU funding after accession.

Finally, the partners discussed possible organizational strategies open for NGO resource centers for accessing EU funding as well as help they could provide to the nonprofit sectors in their countries with respect to gaining access.

Joanna Messing joined the group on the final day of the meeting and led an advanced level session on business development. The seminar focused on two issues identified by the partners as important to their business development efforts: market research and financial management. Ms. Messing provided ideas and tools to conduct efficient yet cost-effective market research and more in-depth market analysis, and helped partners with respect to making realistic and sound financial projections. The group explored the difficulties with pricing and strategies for price-setting and considered financial management of a business activity within a nonprofit organization.

Participants received a CD containing extensive materials, including all of the presentations delivered at the meeting, and also legal and other documents compiled by ICNL and the experts for the meeting (such as official documents of the European Union, proposal templates, comparative study papers prepared by ICNL, lists of website links etc.) In their feedback, all partners emphasized that they found the second regional meeting useful and enjoyed learning and sharing experiences.

- ***Organizational Policy E-Sourcebook***

In order to provide information helpful to the partners with respect to their development of organizational capacities, ICNL designed and made available through the Partnership Project Website an Organizational Policy E-Sourcebook. The E-Sourcebook focuses on those policy areas identified by the partners at the outset of the project as ones with which they were dissatisfied with their current policies (or lack thereof). Those areas are: Board Development; Personnel Policies; Conflicts of Interest; and Codes of Conduct.

The E-Sourcebook contains several examples of policies in each area that the partners can use as models in developing their own organizational policies.

- ***Project Website***

To facilitate partner networking with respect to common NGO law reform issues facing their countries, ICNL created the Partnership Project Web page, [www.icnl.org/partnership](http://www.icnl.org/partnership). The Partnership Project site is a password protected site that contains a wide range of materials relating to the project. These include:

- Laws and draft laws that have been the subject of partner advocacy campaigns, as well as ICNL comments on those laws, and other related materials (e.g., research materials relating to laws on volunteers);
- All materials presented at the regional meetings;
- Summaries of the partner needs assessments done at the outset of the project, showing, among other things, areas in which each partner has expertise to share with the others;
- The Organizational Policy E-Sourcebook;
- Contact lists for the partners
- Links to each partner's website.

The site is supplemented by an email listserve that all participants in the project can use to communicate with the group as a whole. According to the feedback of partners, this website has proved to be a useful source of information.

#### **4. Project Results**

The project contributed to an enhanced legal enabling environment in the Partnership countries, as reflected in the legal environment score of the NGO Sustainability Index:<sup>9</sup>

<b>Country</b>	<b>2001 Score</b>	<b>Proposed 2003 Score</b>	<b>Change</b>
<b>Czech Republic</b>	<b>2</b>	<b>3</b>	<b>-1</b>
<b>Estonia</b>	<b>2</b>	<b>1.8</b>	<b>.2</b>
<b>Hungary</b>	<b>1.7</b>	<b>1.3</b>	<b>.4</b>
<b>Latvia</b>	<b>3</b>	<b>2.6</b>	<b>.4</b>
<b>Lithuania</b>	<b>2</b>	<b>1.6</b>	<b>.4</b>
<b>Poland</b>	<b>2</b>	<b>1.9</b>	<b>.1</b>
<b>Slovakia</b>	<b>2.5</b>	<b>2.5</b>	<b>0</b>
<b>Slovenia<sup>10</sup></b>		<b>3.8</b>	

<sup>9</sup> In its project proposal ICNL predicted a .5 increase in the legal environment component of the Sustainability Index in each country. One of the lessons learned from this project is that the enactment of new laws bettering the legal environment do not tend to yield as great an increase in the sustainability index score in countries that are already in consolidation phase (with scores above 3) as they do in countries whose legal environment is at a less advanced stage of development.

## **Conclusion**

We thank USAID for its support in this project, which has contributed to an improved legal enabling environment in the subject countries as well as greater capacity on the part of the partner organizations to advocate effectively for legal reforms affecting civil society.

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<sup>10</sup> Slovenia was included in the Sustainability Index for the first time in 2003 and as a result there is no comparative information available for 2001.